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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/617,731	07/14/2003	Mitsuo Yamada	023971-0291	3612
22428 7590 02/12/2009 FOLEY AND LARDNER LLP SUITE 500 3000 K STREET NW WASHINGTON, DC 20007				
EXAMINER				
MIGGINS, MICHAEL C				
ART UNIT		PAPER NUMBER		
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MAIL DATE		DELIVERY MODE		
02/12/2009		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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Ex parte MITSUO YAMADA, HIROSHI KUMAGAI  
KATSUMI MOROHOSHI and YUICHI FUJINUMA

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Application No. 10/617,731  
Technology Center 1700

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Mailed: February 12, 2009

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Before GLORIA HENSERSON, *Review Team Paralegal*  
HENDERSON, *Review Team Paralegal*.

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received at the Board of Patent Appeals and Interferences on July 9, 2008. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matter requiring attention prior to docketing is identified below.

APPEAL BRIEF – CLAIMS APPENDIX

A Non-Final Rejection was mailed on May 11, 2007, in response to an amendment filed on February 23, 2007, which added Claim 19 as new. In the Non-Final Rejection the examiner states that Claims 1-4 and 7-19 are rejected. Appellants filed an Appeal Brief on October 15, 2007, which states under the Status of Claim that “A copy of claims 1-4 and 7-19 on appeal is provided in the CLAIMS APPENDIX. All of these claims have been finally rejected.” However, further review of the Appeal Brief reveal that Claim 19 is not included in the appendix. Appropriate correction is required.

CONCLUSION

Accordingly, it is

**ORDERED** that the application is electronically returned to the examiner:

- 1) 1) to hold the Appeal Brief filed October 15, 2007, 2006, defective;
- 2) notify appellants to file a Supplemental Appeal Brief with a correct copy of claims for the Claims Appendix;
- 3) consider the Supplemental Appeal Brief and if the Supplemental Appeal Brief is in compliance, issue and mail a Form PTOL-90 acknowledging receipt and consideration of the Supplement Brief; and
- 4) for such further action as may be appropriate.

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

GJH

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